

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

State Farm Fire and Casualty Company,)

Case No. 8:23-cv-00140-DCC

Plaintiff,)

v.)

ORDER

James Allen Busby; Mark Busby;)
Christopher Busby; Tri-County Homes,)
Inc.; Cindy Dorman; Mark Busby,)
Personal Representative of the Estate)
of Elaine Mauldin; Paul Glenn Busby,)

Defendants.)

This matter is before the Court on Plaintiff's motion to be dismissed from this action with prejudice. ECF No. 68. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). On October 17, 2023, the Magistrate Judge issued an Order granting Plaintiff's motion to deposit interpleader funds and a Report recommending that Plaintiff's motion to dismiss be granted. ECF No. 88. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences for failing to do so. No party has filed objections to the Report and the time to do so has lapsed.

APPLICABLE LAW AND ANALYSIS

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and adopts the recommendation of the Magistrate Judge. Accordingly, Plaintiff’s motion to be dismissed from this action with prejudice [68] is **GRANTED**. This action will continue as between the defendants to determine who is entitled to the proceeds of the Policy.¹

IT IS SO ORDERED.

¹ The Court notes that the Magistrate Judge has issued a second Report with respect to the remaining motions. The time for objections to that Report has not yet run; accordingly, the Court reserves ruling on that Report for a later date.

s/ Donald C. Coggins, Jr.
United States District Judge

December 4, 2023
Spartanburg, South Carolina